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SUBJECT: MOLDOVA 2009 SPECIAL 301 REPORT

REF: STATE 8410

11. (SBU) SUMMARY: The Republic of Moldova continues to introduce legislation to harmonize its intellectual property rights (IPR) with EU and WTO standards. Moldova has an adequate legal framework for the protection of IPR, but struggles with implementation. According to the Business Software Alliance (BSA), software piracy rankings for 2007, Moldova had the fourth highest rate of illegal software use in the world with 92 percent. The Moldovan market remains small and relatively obscure. END SUMMARY.

#### MOLDOVAN IPR LEGISLATION

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12. (U) The Government of Moldova created the State Agency on Intellectual Property (AGEPI) on September 13, 2004. AGEPI is the main government agency in Moldova responsible for the coordination of IPR enforcement. AGEPI, the Ministry of Internal Affairs and the Customs Service collaborate to enforce IPR. Moldova has been a member of the World Intellectual Property Organization since 1991, and is a party to 25 international treaties on the protection of IPR. Moldova joined the World Trade Organization (WTO) in 2001 and, as part of the accession process, committed itself to amend domestic legislation to comply with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).

13. (SBU) In order to harmonize domestic legislation with EU norms, in 2007 AGEPI drafted a new Law on Copyright and Related Rights, the framework law for IPR protection in Moldova. The draft law is currently awaiting discussion by Parliament. The EU's interest in Moldovan compliance with IPR legislation has increased with the granting of trade preferences. In 2008, Moldova adopted five new laws regulating the protection of industrial property objects and ensuring compliance with the EU legislation on the enforcement of IPR. Although Moldova continues to enact legislation to harmonize its laws with the EU, implementation of the law and understanding of the negative impact of IPR violation are often left behind.

#### IPR ENFORCEMENT

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14. (U) AGEPI has been the lead agency on inter-governmental coordination and has signed agreements with all relevant Moldovan agencies involved in IPR enforcement. AGEPI has five inspectors who may conduct inspections on their own initiative or at the request of IPR holders on copyright and related rights enforcement. In 2008, AGEPI inspectors conducted 222 inspections (the vast majority on their own initiative). In 94 cases, inspectors found an IPR infringement and over 3,000 products, mostly DVDs and CDs, were seized. AGEPI also provides judiciary and law enforcement authorities with expert testimony on IPR investigations. In 2008, in response to judicial requests, AGEPI specialists conducted 138 forensic investigations on seized audio-visual media. IPR enforcement in the Customs Code fully complies with the requirements of the WTO as outlined in the TRIPs agreement.

## BUSINESS SOFTWARE ALLIANCE IN MOLDOVA

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15. (SBU) In 2006 BSA started operating in Moldova in cooperation with AGEPI and the Ministry of Internal Affairs to raise the standards for IPR protection in Moldova. BSA Representative Daniel Martin cited Moldova's high level of unlicensed software (92 percent), which BSA estimates cost the industry about USD 43 million in 2007. In 2006 BSA estimated the losses at USD 56 million. BSA will release the results for 2008 in April 2009. In 2008 BSA continued its legalization and anti-piracy public education campaigns and in 2009 will hold joint training sessions with AGEPI and Moldovan police in collaboration with Romanian IPR enforcement agencies. In 2009 BSA plans training for the recently created Information Crimes Section of the Ministry of Internal Affairs. Martin cited the creation of this new section as an expansion of governmental efforts to enforce IPR.

### COMMENT

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16. (SBU) The Republic of Moldova was not listed in the 2008 Special 301 Report. The 2009 Special 301 website received no private sector comments on Moldova. Moldova maintains adequate IPR legislation and we have no information that Moldovan authorities have denied fair and equitable market access to any U.S. persons who rely on intellectual property protections. The Republic of Moldova continues to take steps to harmonize its IPR legislation with EU standards. However, simply "cutting and pasting" EU standards does not improve the relative quality of Moldova's IPR enforcement. Moldova is still transitioning from a command economy to a market economy and society lacks the legal traditions and a culture of IPR enforcement. The growth of a market economy and foreign investors is leading to an increase in IPR cases. The presence of BSA encouraged Microsoft and Autodesk to establish representational offices in the Moldovan market and increase the presence of companies concerned with IPR enforcement. END COMMENT.

KEIDERLING